Supreme Court, U.S.
FILED
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JOSEPH F. SPANIOL, JR.
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(6)

NO. 85-2018

IN THE SUPREME COURT OF THE
UNITED STATES

OCTOBER TERM, 1985

ARTHUR KUNGLE JR,

Petitioner

v.

ST. JOHN'S COLLEGE, et al.,

Respondents

ON PETITION FOR WRIT
OF CERTIORARI
TO THE COURT OF APPEALS OF MARYLAND

PETITIONER'S REPLY BRIEF TO RESPONDENT'S BRIEF IN OPPOSITION

ARTHUR KUNGLE JR,
Pro se
P. O. Box 365
Annapolis, Maryland
21404
(301) 263-9080

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TABLE OF CONTENTS

Correction of Misstatements of the Case 1

Reply to Grounds for Denial of Writ 2

Conclusion 5

Appendix of Statute and Rule 6

TABLE OF AUTHORITIES

Foman v. Davis, 371 U.S. 178 (1962) 2

Furness v. Yang-Tze, 242 U.S.430 (1917) 3

Kolender v. Lawson,
103 S. Ct. 1855 (1983) 4

Princeton v. Schmid,
455 U.S. 100 (1982) 4

28 U. S. Code 1257 2

Supreme Court Rule 17 2

35 Maryland Attorney General's Opinion
(1950), 154 5

12 Moore's Federal Practice (1982) 5

Stern & Gressman, Supreme Court Practice
(1986) 2

Vinson, 69 S. Ct. v (1949) 4

Correction of Misstatements of the Case

Respondent's Brief in Opposition fails to meet the contentions of this Petition, and also misstates the record. As summarily as possible this seems to include:

a. Two attempts--not four--were made to improve the complaint as requested by two judges (Record = R) R-54, 133.

b. Respondents first demurred--not moved to strike, arguing failure to state claims, causes, facts, relief, as well as laches R13-14.

c. Appeal was from denial of motion to alter and underlying order, R 239, 240, however "inept" Foman v. Davis, 371 U.S. 178, 181 (1962).

d. Motion for reconsideration included requests for rescinsion and reinstatement. Motion i.

e. Respondents and middle court--at least--indicated understanding Transcript 32, and evasion, Appellee's Br. 25-26, Ct. of Sp. App. Op. at 7, of issues on constitutions and more.

Reply to Grounds for Denial of Writ

a. Petitioner showed conflicts, and questions of importance, validity and repugnance, 28 U.S.C. 1257, Supreme Court Rule 17. Stern & Gressman, Supreme Court Practice(1986), 373. Respondents denied.

b. This Petition contains

> appropriate references to the record and present(s) with studied accuracy, brevity and clearness (Furness v. Yang-Tze, 242 U.S. 430, 434 (1917) for

what seems to be essential. Respondents make none.

c. The lower court promised "different standards" for opposing attorney and petitioner who is not (Transcript 24). But Maryland Courts, contrary to Respondents, denied discovery, held pleading strictly against the pleader, overlooked fibbing, relied on hearsay and vague proffers, and on assertions never proved, and avoided and evaded conflicts, constitutions, treaties, and more. The Record herein. This was hardly help for the petitioner.

d. Whether the pleadings were legally adequate Maryland's Court of Appeals was in no position to consider on petition because they, unlike this Court, do not require any record of questions.

e. When Respondents demur failed they switched to saying 'we don't understand 'cause we don't want to understand, and you can't make us' (admit that we understand). This superb stonewalling offers new avenues for litigation. Yet, this Court may recall similar efforts to deter this Court by Mr Kazenbach and Mr Peterson on oral argument respectively in Princeton v. Schmid, 455 U.S. 100 (1982), & Kolender v. Lawson, 103 S.Ct. 1855 (1983).

f. Petitioner has tried to defend

> tremendously important principles, upon which are based the plans, hopes, and aspirations of a great many people throughout the country, 69 S. Ct. vi (1949)

and, imperfectly, liberty and justice for all. *

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* An Amicus Curiae could not be entered due to Respondent's Brief being post marked on July 1, 1986, while service was certified for July 7, 1986--as noted to the Clerk's office before that date.

Maryland's Attorney General disclaims interest because supposedly St John's College is a private corporation (Contra: 35 Maryland Attorney General's Opinion (1950) 154) and no state concern is involved (Contra: 12 Moore's Federal Practice (1982) ¶ 514.01).

And while just before the lower court's dismissal , it said: "go to American Civil Liberties Union," now as then, other things seem more important than all this. (7-43)

CONCLUSION

The Petitioner, Arthur Kungle Jr, respectfully requests that this Court grant this petition, and do whatever is right and proper.

Respectfully submitted,

Arthur Kungle Jr
P. O. Box 365
Annapolis, Md 21404
(301) 263-9080
Pro se

Certificate of Service

This is to certify that on this 9th day of July, 1986, three copies of the foregoing were sent to Benjamin Wolman, Wolman, Gushee & Newman, 14624 Main St., Upper Marlboro, Md, 20772, counsel for the Respondents, via first mail, postage prepaid. And this is so affirmed under penalty of perjury.

Arthur Kungle Jr

Statutes: 28 U.S.C. § 1257.

State courts; appeal; certiorari

Final judments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:

(1) By appeal, where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity.

(2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

(3) By writ of certioriri, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, teaties or laws

of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States.

For the purposes of this section, the term "highest court of a State" includes the District of Columbia Court of Appeals.

Rules: Supreme Court Rule 17.1 (b & c)

Considerations Governing Review on Cert.

.1 A review on writ of certiorir is not a matter of right, but of judicial discretion, and will be granted only when there are special and important reasons therfor. The following, while neither controlling nor fully measuring the Court's discretion, indicate the character of reasons that will beconsidered.

(b) When a state court of last resort has decided a federal question in a way in conflict with the decision of anorther state court of last resort or of a federal court of appeals.

(c) When a state court or a federal court of appeals has decided an important question of federal law which has not been, but should be, settle by this Court, or has decided a federal question in a way in conflict with applicable decisions of this Court.